UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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REGIONAL
ADMINISTRATOR'S
DIVISION

September 13, 2022

Lisa Applebee
FHWA Idaho Division
3050 N Lakeharbor Lane
Boise, Idaho 93703

Dear Lisa Applebee:

The U.S. Environmental Protection Agency has reviewed Federal Highway Administration's August 2022 Notice of Intent to prepare an Environmental Impact Statement for the Interstate 15 and U.S. Highway 20 Connector Project (EPA Project Number 21-0028-FHWA). EPA has conducted its review pursuant to the National Environmental Policy Act and our review authority under Section 309 of the Clean Air Act. The CAA Section 309 role is unique to EPA and requires EPA to review and comment publicly on any proposed federal action subject to NEPA's environmental impact statement requirement.

The FHWA proposes to evaluate the potential environmental impacts associated with reconfiguration of portions of I-15 and US20, including the interchange connecting the two highways through Idaho Falls, Idaho. The NOI identifies a No Action Alternative and two build alternatives (E3 and H2). Alternative E3 moves the existing interchange north approximately 2,000 feet, realigning US20 approximately 3,000 feet, and Alternative H2 adds a new I-15 US20 interchange approximately two miles north of the existing interchange, realigning approximately three miles of US20.

EPA is a participating agency on the project and appreciated the opportunity to provide pre-NEPA feedback on draft resource methodologies and documents. We are particularly supportive of the project's inclusion of active transportation by addressing pedestrian and bicycle mobility and the project's goals to seek multimodal network connections and additional opportunities for environmental enhancements.

EPA has concerns about potential impacts from project activities to several resource areas, including water quality and aquatic resources, air quality, environmental justice, tribal consultation, climate change, and cumulative effects. The enclosed Detailed Comments provide greater detail of these and other concerns, as well as recommendations for the Draft EIS.

If you have questions about this review, please contact Susan Sturges of my staff at (206) 553-2117 and sturges.susan@epa.gov, or me, at (206) 553-1774 or at chu.rebecca@epa.gov.

Sincerely,

REBECCA CHU Digitally signed by REBECCA CHU
Date: 2022.09.13 09:38:55 -07'00'

Rebecca Chu, Chief
Policy and Environmental Review Branch

CC:
Karen Hiatt, Idaho Transportation Department District 6 (karen.hiatt@itd.idaho.gov)
Ryan Day, Idaho Transportation Department District 6 (ryan.day@itd.idaho.gov)
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Enclosure

U.S. EPA Detailed Comments on the
I-15 / US20 Connector NOI
Idaho Falls, Idaho
September 2022

Impacts to Water Quality and Aquatic Resources

Clean Water Act (CWA) Section 404

The proposed project would require a CWA Section 404 permit from the U.S. Army Corps of Engineers (Corps) for the discharge of dredged or fill material into waters of the U.S. (WOTUS). Wetlands, vegetated shallows, and riffle and pool complexes are considered special aquatic sites under the CWA Section 404(b)(1) Guidelines (40 CFR 230).

EPA recommends that the DEIS:

- Clearly identify any discharges to WOTUS that are known, or likely, to occur that will be subject to CWA Section 404. Identify and describe the impact of those discharges, control measures to be employed to address those impacts, and best management practices to prevent discharge of water and pollutants.
- Include sufficient information that can serve as a basis to determine whether the project would satisfy the requirements for the CWA Section 404 permit or identify appropriate measures to mitigate the project's impacts to all WOTUS.
- Structure the alternatives analysis so that it is consistent with meeting requirements of both the CWA and NEPA.
- Describe the regulatory criteria and processes utilized to screen potential alternatives and thoroughly evaluate alternatives that would pose less adverse impacts.
- Describe how compensatory mitigation will be quantified and provided to offset impacts, with specific project examples and options as available.

For context on the CWA Section 404(b)(1) analysis, the Guidelines include four main requirements (40 CFR 230.10 (a) through (d)):

<u>Least Environmentally Damaging Practical Alternative (LEDPA) Determination - Section 230.10(a)</u>
A CWA Section 404 permit can be issued only for the LEDPA. Practicable alternatives include those that are capable and feasible of being done after taking into consideration costs, technology, and logistics. Costs alone cannot make a project not practicable. Corps permit decisions require a comprehensive evaluation of the range of alternatives to ensure the permitted alternative is the LEDPA. Identification of the LEDPA is achieved by performing an alternatives analysis that estimates the direct, indirect, and cumulative impacts to jurisdictional waters of the U.S. that would result from each of the potential project alternatives. Only when this analysis has been performed can the applicant or the permitting authority be assured that no discharge other than the practicable alternative with the least impact on the aquatic ecosystem will be authorized.

<u>Water Quality - Section 230.10(b)</u>
Prohibits permitting projects that would cause or contribute to violations of water quality standards, violates any applicable toxic effluent standard, jeopardizes continued existence of endangered or threatened species and impacts to critical habitat under the Endangered Species Act, or violates any requirements to protect any marine sanctuary designated under Marine Protection, Research, and Sanctuaries Act.

Significant Degradation - Section 230.10(c)
Prohibits permitting a project that causes or contributes to significant degradation of aquatic resources. Effects contributing to significant degradation include: (1) adverse effects on plankton, fish, shellfish, wildlife, and special aquatic sites (40 CFR 230.10(c)(1)), (2) adverse effects on life stages of aquatic life (40 CFR 230.10(c)(2)), (3) aquatic ecosystem diversity, productivity, and stability including loss of fish and wildlife habitat (40 CFR 230.10(c)(3)), and (4) impairment or destruction of endangered species habitat (40 CFR 230.30(2)).

Mitigation - Section 230.10(d)
Requires compensatory mitigation for unavoidable impacts to aquatic resource functions. The 2008 Joint EPA-Corps Federal Mitigation Rule (40 CFR 230.91-98) establishes a preference for compensatory mitigation based on a watershed approach, which can ensure that potential direct and indirect impacts of the project are offset. In addition to identifying all measures to avoid and minimize adverse impacts to the aquatic environment (showing compliance with 40 CFR Part 230.10(a)), for unavoidable impacts, identify compensatory mitigation.

Sole Source Aquifer (SSA)
The proposed project is located within the recharge area of the Eastern Snake River Plain Aquifer, a designated SSA under the Safe Drinking Water Act, Section 1424(e). EPA is charged with the review of projects that receive federal assistance and are located in designated SSA review areas to evaluate a project's potential to contaminate the aquifer. EPA recommends the DEIS describe the project's potential impacts to the Eastern Snake River Plain SSA and include proposed measures to ensure the project prevents the contamination of the SSA.

CWA Section 402
Idaho Department of Environmental Quality administers the EPA-approved Idaho Pollutant Discharge Elimination System (IPDES) Program regulating discharges of pollutants into WOTUS under its jurisdiction. EPA recommends the DEIS identify any discharges to WOTUS that are known, or are likely, to occur during construction and operation of the project and how these discharges subject to CWA Section 402 would be managed and minimized. Identify the IPDES permits that will be obtained for the construction phase and any new (or modifications to) existing permits for operations.

Air Quality
EPA recommends the DEIS discuss air quality impacts from project construction, maintenance, and operations with respect to criteria air pollutants and air toxics, including diesel particulate matter emissions. Also discuss the direct, indirect, and cumulative impacts of project related air emissions. Disclose current representative background criteria air pollutant concentrations in the project areas, compare to the state and federal ambient air quality standards, and disclose any other air quality regulations and requirements related to the project.

For air pollutant emissions expected during construction, discuss the potential exposure of these pollutants to nearby sensitive populations, such as residences including communities with environmental justice concerns, park/recreational users, schools, daycares, seniors/nursing homes, hospitals, and other healthcare facilities. EPA recommends including a discussion of measures to be taken to minimize air quality impacts on the local environment and decrease exposure of construction-related emissions to neighboring sensitive populations. For example, locate construction equipment and staging zones away from sensitive receptors and fresh air intakes to buildings and air conditioners.

Environmental Justice
Executive Order 12898 directs federal agencies to identify and address the disproportionately high and adverse human health on environmental effects of their actions on minority and low-income populations, to the greatest extent practicable and permitted by law. Consider incorporating EO 13985 on *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* into the FHWA's analysis since it includes a modern definition of equity that clarifies a broader approach.

EJScreen
EJScreen is EPA's nationally consistent environmental justice screening and mapping tool.[1] EJScreen offers a variety of powerful data and mapping capabilities that enable users to understand details about the population of an area and the environmental conditions in which they live. The tool provides information on environmental and socioeconomic indicators as well as pollution sources, health disparities, critical service gaps, and climate change data. The data is displayed in color-coded maps and standard data reports which feature how a selected location compares to the rest of the nation and state.

Assessing EJScreen information is a useful first step in understanding or highlighting locations that may be candidates for further review or outreach. EPA considers a project to be in an area of potential environmental justice (EJ) concern when an EJScreen analysis for the impacted area shows one or more of the twelve EJ Indexes at or above the 80th percentile in the nation and/or state. An area may also warrant additional review if other information suggests the potential for EJ concerns. An EJScreen analysis which does not reveal the potential for EJ concerns should not be interpreted to mean that there are definitively no EJ concerns present.

When screening for potential EJ concerns along linear project routes, EPA recommends assessing, at a minimum, all individual block groups within or intersecting a 1-mile radius of the project, rather than assessing larger geographic or jurisdictional units of analysis (e.g., census tracts, counties). However, it is important to consider all impacted areas by the proposed action(s). Areas of impact can be very focused and contained within a single block group, or broader, spanning across several block groups and communities.[2] When assessing large geographic areas, consider the individual block groups within the project area in addition to an area wide assessment. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators.[3] As the screening tool does not provide data on every environmental impact and demographic factor that may be relevant to a particular location and/or proposed project, consider additional information in an EJ analysis to supplement EJScreen outputs. Further review or outreach may be necessary for the proposed action(s). To address these potential concerns, EPA recommends:

- Applying methods from "Environmental Justice Interagency Working Group Promising Practices for EJ Methodologies in NEPA Reviews" report, or the Promising Practices Report, to this

[1] EPA's Environmental Justice Screening and Mapping Tool (Version 2.0): https://ejscreen.epa.gov/mapper/. Accessed September 8, 2022.
[2] Agencies should define community as "either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions" (Interim Justice40 Guidance – Executive Order 14008 on Tackling the Climate Crisis at Home and Abroad, January 27, 2021).
[3] EPA's Technical Documentation for EJScreen: https://www.epa.gov/ejscreen/technical-documentation-ejscreen. Accessed September 8, 2022.

project.[4] The Promising Practices Report is a compilation of methodologies gleaned from current agency practices concerning the interface of EJ considerations through NEPA processes.

- Characterizing the project site with specific information or data related to EJ concerns.[5]
- Describing potential EJ concerns for all EJ Indexes at or above the 80th percentile in the state and/or nation.
- Describing block groups which contain the proposed action and at a minimum, a one-mile radius around those areas.
- Describing individual block groups within the project area in addition to an area-wide assessment.
- Supplementing data with county level reports and local knowledge.

Community Cohesion

FHWA's guidance for assessing impacts to communities includes considering potential disruptions to community cohesion.[6] EPA recommends the DEIS evaluate and address direct, indirect, and cumulative impacts for communities or neighborhoods that would potentially be most affected by the proposed project, including those with the potential for induced development from growth-related impacts. Given community concerns with the project, EPA recommends that the project's EJ analysis include an assessment of the existing community cohesion for each alternative and how the project could potentially disrupt and/or enhance community cohesion. Consider community feedback in designing mitigation measures to address any potentially significant concerns.

Tribal Consultation

EPA encourages the FHWA to consult with the Tribes and incorporate feedback from the Tribes when making decisions regarding the project. EPA recommends the EIS describe the issues raised during the consultations and how those issues were addressed.

Climate Change

In characterizing the affected environment and environmental consequences of the proposed action, EPA recommends the DEIS:

- Include existing and reasonably foreseeable environmental trends related to a changing climate.
- Discuss reasonably foreseeable effects that a currently changing climate will have on the proposed project and the project area, including its infrastructure. This helps inform the development of measures to improve the climate resilience of the proposed project. If projected climate-related changes could notably stress the affected environment or exacerbate the environmental impacts of the project, consider these impacts as part of the NEPA analysis.
- Quantify the direct and indirect greenhouse gas emissions that will result from proposed construction, operations, and maintenance activities. Estimated emissions can serve as a useful proxy for assessing relative effects, comparing alternatives, and supporting the need for practicable mitigation to reduce greenhouse gas emissions.

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[4] Promising Practices for EJ Methodologies in NEPA Reviews: https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf. Accessed September 8, 2022.

[5] For more information about potential EJ concerns, refer to the July 21, 2021, Memorandum for the Heads of Departments and Agencies Interim Implementation Guidance for the Justice40 Initiative: https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf. Accessed September 8, 2022.

[6] 2018 Update Community Impact Assessment A Quick Reference for Transportation: https://www.fhwa.dot.gov/livability/cia/quick_reference/ciaguide_053118.pdf. Accessed September 12, 2022.

- Assess the extent to which the proposed project is consistent with U.S. and global policy to limit greenhouse gas emissions.
- Identify how climate resiliency has been considered in the Proposed Action and Alternatives.
- Relate climate change to EJ and human health impacts, prevent environmental damage that harms communities and poses a risk to public health and safety.
- Identify and address any regional specific climate plans to ensure that the proposed project aligns with these plans.

Cumulative Impacts

Cumulative effects are those that are reasonably foreseeable, related to the proposed action under consideration, and subject to the agency's jurisdiction and control. EPA recommends that the DEIS analysis consider evaluation of impacts over the entire area of impact and consider the effects of projects when added to other past, present, and reasonably foreseeable future projects in the analysis area. Considering all the actions in this area together helps decision makers to understand more clearly what the cumulative impacts on environmental resources are likely to be and identify ways to ensure the project is sustainable. EPA has issued guidance on how to provide comments on the assessment of cumulative impacts, *Consideration of Cumulative Impacts in EPA Review of NEPA Documents.*[7] The guidance states that to assess the adequacy of the cumulative impact assessment, there are five key areas to consider:

- Resources, if any, that are being cumulatively impacted.
- Appropriate geographic area and the time over which the effects have occurred and will occur.
- All past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern.
- A benchmark or baseline.
- Scientifically defensible threshold levels.

Monitoring

As the proposed project has the potential to impact many environmental resources for an extended period, EPA recommends that the project be designed to include an environmental inspection and mitigation monitoring program to ensure compliance with and efficacy of mitigation measures. EPA recommends the DEIS describe the monitoring program and how it will be used as an effective feedback mechanism so that the project can be adaptively managed over time, and any needed adjustments can be made to the project to meet environmental objectives throughout its lifespan.

[7] Consideration of Cumulative Impacts in EPA Review of NEPA Documents: https://www.epa.gov/sites/production/files/2014-08/documents/cumulative.pdf. Accessed September 8, 2022.